

Adopted	Rejected
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## COMMITTEE REPORT

YES:	11
NO:	0

### MR. SPEAKER:

*Your Committee on Employment and Labor, to which was referred Senate Bill 612, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1       Page 1, between the enacting clause and line 1, begin a new  
2       paragraph and insert:  
3       "SECTION 1. IC 22-4-4-2 IS AMENDED TO READ AS  
4       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as  
5       otherwise provided in this section, "wages" means all remuneration as  
6       defined in section 1 of this chapter paid to an individual by an  
7       employer, remuneration received as tips or gratuities in accordance with  
8       Sections 3301 and 3102 et seq. of the Internal Revenue Code, and  
9       includes all remuneration considered as wages under Sections 3301 and  
10      3102 et seq. of the Internal Revenue Code. However, the term shall not  
11      include any amounts paid as compensation for services specifically  
12      excluded by IC 22-4-8-3 **or IC 22-4-8-3.5** from the definition of  
13      employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall  
14      include, but not be limited to, any payments made by an employer to an  
15      employee or former employee, under order of the National Labor

1 Relations Board, or a successor thereto, or agency named to perform  
 2 the duties thereof, as additional pay, back pay, or for loss of  
 3 employment, or any such payments made in accordance with an  
 4 agreement made and entered into by an employer, a union, and the  
 5 National Labor Relations Board.

6 (b) The term "wages" shall not include the following:

7 (1) That part of remuneration which, after remuneration equal to  
 8 seven thousand dollars (\$7,000), has been paid in a calendar year  
 9 to an individual by an employer or his predecessor with respect to  
 10 employment during any calendar year subsequent to December  
 11 31, 1982, unless that part of the remuneration is subject to a tax  
 12 under a federal law imposing a tax against which credit may be  
 13 taken for contributions required to be paid into a state  
 14 unemployment fund. For the purposes of this subdivision, the term  
 15 "employment" shall include service constituting employment  
 16 under any employment security law of any state or of the federal  
 17 government. However, nothing in this subdivision shall be taken  
 18 as an approval or disapproval of any related federal legislation.

19 (2) The amount of any payment (including any amount paid by an  
 20 employer for insurance or annuities or into a fund to provide for  
 21 any such payment) made to, or on behalf of, an individual or any  
 22 of ~~his~~ **the individual's** dependents under a plan or system  
 23 established by an employer which makes provision generally for  
 24 individuals performing service for it (or for such individuals  
 25 generally and their dependents) or for a class or classes of such  
 26 individuals (or for a class or classes of such individuals and their  
 27 dependents) on account of:

28 (A) retirement;

29 (B) sickness or accident disability;

30 (C) medical or hospitalization expenses in connection with  
 31 sickness or accident disability; or

32 (D) death.

33 (3) The amount of any payment made by an employer to an  
 34 individual performing service for it (including any amount paid by  
 35 an employer for insurance or annuities or into a fund to provide  
 36 for any such payment) on account of retirement.

37 (4) The amount of any payment on account of sickness or accident  
 38 disability, or medical or hospitalization expenses in connection

1 with sickness or accident disability made by an employer to, or on  
 2 behalf of, an individual performing services for it and after the  
 3 expiration of six (6) calendar months following the last calendar  
 4 month in which the individual performed services for such  
 5 employer.

6 (5) The amount of any payment made by an employer to, or on  
 7 behalf of, an individual performing services for it or to ~~his~~ **the**  
 8 **individual's** beneficiary:

9 (A) from or to a trust exempt from tax under Section 401(a) of  
 10 the Internal Revenue Code at the time of such payment unless  
 11 such payment is made to an individual performing services for  
 12 the trust as remuneration for such services and not as a  
 13 beneficiary of the trust; or

14 (B) under or to an annuity plan which, at the time of such  
 15 payments, meets the requirements of Section 401(a)(3),  
 16 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue  
 17 Code.

18 (6) Remuneration paid in any medium other than cash to an  
 19 individual for service not in the course of the employer's trade or  
 20 business.

21 (7) The amount of any payment (other than vacation or sick pay)  
 22 made to an individual after the month in which ~~he~~ **the individual**  
 23 attains the age of sixty-five (65) if ~~he~~ **the individual** did not  
 24 perform services for the employer in the period for which such  
 25 payment is made.

26 (8) The payment by an employer (without deduction from the  
 27 remuneration of the employee) of the tax imposed upon an  
 28 employee under Sections 3101 et seq. of the Internal Revenue  
 29 Code (Federal Insurance Contributions Act).".

30 Page 2, between lines 27 and 28, begin a new paragraph and insert:

31 "SECTION 5. IC 22-4-9-5 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. An employing unit  
 33 for which services, as specifically excluded by IC 22-4-8-3 **or**  
 34 **IC 22-4-8-3.5**, are performed, may file with the commissioner its  
 35 written election to consider all such services for such employing unit in  
 36 one (1) or more distinct establishments, as employment for all purposes  
 37 of this article for not less than two (2) calendar years. Upon written  
 38 approval of such election by the commissioner, such services shall be

- 1 deemed to constitute employment subject to this article as of the date
  - 2 stated in such approval and shall cease to be deemed employment
  - 3 subject hereto as of January 1 of any calendar year subsequent to such
  - 4 two (2) calendar years only if prior to January 31 it has filed with the
  - 5 commissioner a written notice to that effect."
  - 6 Page 2, line 41, strike "Effective July 1, 1975,".
  - 7 Page 2, line 41, delete "and except" and insert "**Except**".
  - 8 Page 4, line 27, after "3" insert "**or 3.3**".
  - 9 Page 6, line 23, delete "chapter," and insert "**chapter:**
  - 10 **(1)**".
  - 11 Page 6, line 24, delete "IC 35-41-2-2(b)." and insert
  - 12 "**IC 35-41-2-2(b); and**
  - 13 **(2) "recklessly" has the meaning set forth in IC 35-41-2-2(c).**".
  - 14 Page 7, line 14, delete "IC 22-4-7-1 or" and insert "**IC 22-4-7**".
  - 15 Page 7, line 15, delete "IC 22-4-7-2".
  - 16 Page 8, line 1, delete "knowingly:" and insert "**knowingly or**
  - 17 **recklessly:**".
  - 18 Page 8, line 17, delete "IC 22-4-7-1 or IC 22-4-7-2)." and insert
  - 19 "**IC 22-4-7).**".
  - 20 Page 8, line 17, delete "the" and insert "**an**".
  - 21 Page 8, line 35, delete "the" and insert "**an**".
  - 22 Page 9, line 11, delete "for" and insert "**concerning**".
  - 23 Renumber all SECTIONS consecutively.
- (Reference is to SB 612 as printed February 4, 2005.)

**and when so amended that said bill do pass.**

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Representative Torr